



Background and Talking Points for State Public Comment Meetings on the Every Student Succeeds Act (ESSA)

The background and talking points below are intended to help parents provide input at the “listening tour” public comment meetings that some states are having regarding the development of their ESSA implementation plan. The talking points can also be used to submit written comments. NDSC has compiled a list of stakeholder input activities for most states. Check out the opportunities in your state at <http://bit.ly/25cMbyZ>. If no information is provided for your state, try to find out about plans for stakeholder consultation from your state department of education.

The issues in the ESSA state plans are numerous and very complex. NDSC has hit the highlights in this document, but don’t feel you have to use all the talking points. Pick a few that resonate for you, if that feels more comfortable. More detailed information and advocacy tips for those of you who want to be more deeply involved in the development of your state plan, as well as those who will provide input on your state plan once it is developed, can be found at <https://www.ndsccenter.org/wp-content/uploads/ESSA-State-Plan-Advocacy-Guide.pdf>.

Meaningful Stakeholder Consultation for State ESSA Plan

Background: ESSA requires the state to have meaningful consultation with stakeholders (including parents) during the development of the state plan. The state also is required to have a public comment period of at least 30 days seeking input on the draft plan before it is finalized and submitted for approval to the U.S. Department of Education. Many states do not have any disability representation on their committees. State advocates need to push back about that. The proposed federal regulations specifically call for meaningful consultation with disability organizations.

Talking Points:

- **Parents of students with Down syndrome (or at least representatives of disability organizations) should be included in the committee that will develop the state ESSA plan.**
- **Groups representing students with Down syndrome and their families should receive notice of all opportunities to provide input** during the development of the state plan and during the public comment period after development of the draft plan (offer to share contact info for your group).
- **The full text of the draft plan should be disseminated for public comment**, not just a summary or PowerPoint about the plan.

- **Stakeholders should have 60 days to provide input on the draft plan**, instead of the minimum required by ESSA, so they can be thorough in their analysis and input.

Student Subgroup Accountability

Background:

- Many provisions in ESSA refer to the student subgroups on which the law is supposed to focus (students with disabilities, economically disadvantaged students, major ethnic and racial groups, English learners). However, data only has to be reported and accountability only happens for the subgroup if there are enough students in the subgroup to equal or exceed the “minimum subgroups size,” (also called N size) which is set by the state. This rule is primarily intended to protect the confidentiality of students, but many states set the “N size” higher than necessary. **For example, if your state sets a minimum subgroup size of 25 and there are only 20 students with disabilities in the grades that are being assessed at your school, there will be no support and improvement activities required for the benefit of these students regardless of how poorly they perform academically.**
- ESSA has a requirement for schools to be identified as needing targeted support and improvement if one or more student subgroups are “consistently underperforming.” States then determine exit criteria for schools identified for targeted support and improvement, which if not satisfied (in a state determined number of years) may result in the school being identified for comprehensive support and improvement. **How the term “consistently underperforming” is defined will impact how bad things have to be and for how long before any action is taken to improve the performance of students with disabilities at a school (but this only applies if the N-size is met).**
- One factor to be considered in identifying schools is whether 95% of students with disabilities have participated in the state assessments. Under the No Child Left Behind Act there were very serious consequences for schools that did not meet this requirement. However, under ESSA, the state determines how the failure to meet the requirement will impact a school. **The 95% participation requirement is necessary to ensure that students who are underperforming are not encouraged to opt-out. Without these students participating in state assessments, the process for identifying schools for support and improvement will be flawed.**
- There are four academic indicators described in the law that must be considered in identifying schools, but the state has leeway regarding how much weight to give the indicators. In addition, there is a provision giving the state the discretion to select at least one indicator of school quality or student success. **It is essential to ensure that the indicators that are most likely improve student academic outcomes will carry the most weight when identifying schools for support and improvement.**

Talking Points:

- Using your personal story, explain why it is so important to you that your state require strong accountability at the school and district level for the academic performance of students with disabilities and then mention the following issues that greatly impact accountability.
- The minimum subgroup size (N-size) should not be set so high that many schools do not reach that number. States should be able to defend the number they select by disclosing the number and percentage of schools that will not have to be specifically accountable for the disability subgroup if that number is used for the minimum subgroup size. **Studies indicate that an N-size of 10 or less is sufficient.**
- When the state defines “consistently underperforming” it is very important that “consistently” is defined in a way that does not allow students with disabilities to languish in schools for many years with no action. **NDSC supports the proposed federal regulation, which provides that a subgroup should be considered as consistently underperforming after no more than two years.**
- **The state should define “underperforming” as not meeting, or not on track to meet, state long term goals and interim measures.** Whether a subgroup is underperforming should not be dependent on a comparison with how other groups of students are doing.
- **Schools that are identified for targeted support and improvement should be identified for comprehensive support and improvement if requirements to exit from targeted support and improvement have not been met after 3 years.**
- **There should be a significant and meaningful impact on the school rating when schools do not assess at least 95% of their students with disabilities.**
- **The weight given to each of the four indicators specified in the law for identifying schools for targeted or comprehensive support and improvement should be 20% (for a total of 80%). The additional indicator(s) selected by the state for school quality or student success should make up the other 20% and directly relate to improved student outcomes.**